

# LEGAL UPDATE

## DOJ Issues Guidance on Opioid Addiction and the ADA

On April 5, 2022, the U.S. Department of Justice (DOJ) issued [guidance](#) on how the Americans with Disabilities Act (ADA) can protect individuals with opioid use disorder (OUD) and other drug addictions from discrimination.

### ADA Background

The ADA is a federal law that prohibits employers with 15 or more employees from discriminating against individuals based on disability. It also requires businesses that are open to the public and state and local governments to make their facilities accessible to individuals with disabilities.

### Drug Addiction as a Disability Under the ADA

The DOJ's guidance explains that individuals with OUD typically qualify for ADA protection because drug addiction is a physical or mental impairment that often substantially limits one or more major life activities. Individuals in recovery from drug addiction may also qualify for ADA protection if they would be limited in a major life activity in the absence of treatment or services to support recovery.

### Exception for Current Illegal Use of Drugs

The ADA's protections do **not** apply if an individual is engaged in "current illegal use of drugs." This is generally defined as illegal use occurring recently enough to justify a reasonable belief that this use is current or that continued use is a real and ongoing problem. The definition does **not** include the use of a prescribed medication under the supervision of a licensed health care professional.

### Workplace Policies

The DOJ guidance clarifies that employers may have reasonable policies or procedures, including drug testing, designed to ensure individuals are not engaging in current illegal drug use.

## Highlights

### Addiction Under the ADA

The ADA generally protects individuals with OUD and other drug addictions from discrimination as long as they are not engaged in "current illegal use of drugs."

### Prescription Drugs

The use of prescribed medications, including those to treat OUD, is not considered illegal if supervised by a licensed health care professional.

### Drug Testing

The ADA does not prohibit employers from drug testing or otherwise enforcing reasonable policies that prohibit current illegal drug use.

*Preventing discrimination based on drug addiction is an important part of the DOJ's efforts to combat the opioid epidemic.*

Provided to you by [National Insurance Services](#)

This Legal Update is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. Readers should contact legal counsel for legal advice. © 2022 Zywave, Inc. All rights reserved.

